



California Regional Water Quality Control Board

Los Angeles Region



Terry Tamminen
Secretary for
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Protection

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Los Angeles Regional Water Quality Control Board Minutes of March 4, 2004 Regular Board Meeting held at Metropolitan Water District of Southern California, 700 North Alameda Street, Los Angeles, CA

Introduction

The meeting was called to order by Chairperson Diamond at 9:15 am.

Board Members Present

Julie Buckner-Levy, Susan Cloke, Francine Diamond, R. Keith McDonald (arrived at 9:50), Bradley Mindlin, H. David Nahai, and Tim Shaheen

Board Members Absent

Christopher Pak

Staff Present

Dennis Dickerson, Deborah Smith, Robert Sams, Michael Lauffer, Ronji Harris, Jack Price, Jenny Newman, Laura Gallardo, Jon Bishop, Paula Rasmussen, Rodney Nelson, Enrique Casas, Douglas Cross, Gary Schultz, Melinda Becker, Renee Deshazo

Others Present

Fred Miller, American Remedial Technologies
Mark Patton, American Remedial Technologies
Donna Chen, City of Los Angeles
Mark Gold, Heal the Bay
Mark Pumford, City of Oxnard
Ed Wallick, AEI Consultants
Dave Gable, Halaco
Eliza Smith Steinmeier, Santa Barbara ChannelKeeper

Man Truong
Carrie Inciong, City of Los Angeles
Margaret Arajo
Alex Landeros
Sheila Kennedy
Farvim Sachse
John Haack, Halaco

1. Roll Call
2. Order of Agenda.

Item No. 11 was continued. Items 9.1 and 9.2 were removed from the uncontested items calendar.

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3. The minutes for the January 29, 2004 Regular Meeting were approved with minor changes.

4. Board Member Communications and Ex Parte Disclosure

Chair Diamond stated that she met with the Malibu Chamber of Commerce, with Vice Chair Cloke and Steve Soberoff regarding the upcoming Malibu Symposium, and with State Board member Nancy Sutley. She also stated that she participated in the Chairs' meeting and would send a memo with information about the meeting to the Board.

Vice Chair Coke stated that she met with James Noyes regarding the County stormwater permit and she met with staff and the Army Corps of Engineers regarding Hansen Dam.

5. Executive Officer's Report

Dennis Dickerson, Executive Officer, updated the Board on recent stormwater enforcement actions, progress on grant review, Hansen Dam remediation plans, and a proposed County ordinance to set up a permitting program to assess fees for their stormwater program. He reported that staff had received the shoreline monitoring plan for the Santa Monica Bay Bacteria TMDL. He then discussed the upcoming Malibu symposium.

6. Public Forum

No one spoke during Public Forum.

7. Uncontested Items

*The Board approved the following consent items:
8.1-8.7, 9.3, 9.4, 13.1, 13.2, 14.1, 14.2.*

- 9.1 &

- 9.2 Waste Discharge Requirements (WDRs) for American Remedial Technologies (ART) and Thermal Remediation Solutions (TRS)

Rodney Nelson, Chief, Landfills Unit, gave a joint staff presentation for items 9.1 and 9.2. He reviewed the layout for the two facilities and the thermal desorption process. He reviewed the WDRs for ART, comments received, and staff's responses. He then reviewed the WDRs for TRS, comments received, and staff's responses.

Mark Patton, ART, reviewed background on the facility and the WDRs. He explained that the facility required WDR renewal because it was moving. He asked for a 30-day delay in the rescission of the old permit so they could properly close the old facility.

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Margaret Arajo, spoke in support of ART.

Alex Landeros, spoke in support of ART.

Board member Nahai asked if ART and TRS were competitors.

Rod Nelson replied that they were.

Board member Nahai asked if the information from ART that was due February 27, 2004 was received by staff and if the material submitted was relevant to the permit renewal.

Rod Nelson replied that staff had received the information but had not reviewed it. He stated that the information was supplementary backup data and not needed to review the permit. He stated that the summary data was submitted under penalty of perjury.

Board member Nahai asked how the monitoring data at the old facility could be used to determine future compliance at the new facility.

Rod Nelson replied that the buildings at both locations were built on concrete slabs.

Vice Chair Cloke asked how it was ensured that treated soil from the facility did not contain hazardous materials. She asked what ART was required to do the close the old facility.

Rod Nelson replied that there were requirements for post treatment testing of the soils.

Enrique Casas, Landfill unit, replied that in order to close the old facility, they had to remove all of the soils and decommission the equipment and structure.

Vice Chair Cloke asked about the nature of the complaints received regarding the ART permit renewal.

Enrique Casas replied that the complaints were, for example, about the soils disposed of at the local landfill. He stated that he followed up and confirmed that the soils disposed of at the landfill contained constituents at acceptable levels.

Chair Diamond asked what was being done to ensure that there was no metal contamination in the treated soils.

Rod Nelson replied that the generator was required to identify the concentrations of metals in the soil prior to treatment. He stated that ART would not accept soils with metal contamination because they were not suitable for thermal desorption.

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Board Member Nahai asked what the investigations of the various complaints entailed.

Enrique Casas replied that he collected samples and had them analyzed and confirmed that constituents were within appropriate limits.

Vice Chair Cloke asked how staff responded to allegations that ART had violations from other agencies.

Rod Nelson replied that staff contacted AQMD, who said that ART had 8 violations between 1997 and 2000, but that ART was in compliance now and had received no notices of violation since 2000.

Chair Diamond stated that she understood the complaints were not regarding water quality issues but that they sent up red flags for the Board. She asked ART to respond to the comments made on their permit.

Mark Patton. ART, responded that ART used to have a discharge permit with LA County Sanitation District but had discontinued the discharge because they began recycling water used onsite. He stated that they were in good standing with AQMD and that there were no other agency issues.

The Board asked staff to more thoroughly address the issues raised in the comment letters and by the Board. There was a motion to continue both items 9.1 and 9.2.

MOTION: By Chair Diamond, seconded by Vice Chair Cloke, and approved on a voice vote. No votes in opposition.

12. Ballona Creek Trash TMDL Amendment

Staff waived their presentation.

Carrie Inciong, Los Angeles County Department of Public Works, supported the proposed amendment.

Donna Chen, City of Los Angeles, supported the proposed amendment.

Mark Gold, Heal the Bay, supported the proposed amendment.

Chair Diamond commended staff on their ability to gain stakeholder approval.

Vice Chair Cloke emphasized the importance of the Trash TMDL and commended staff for their work with stakeholders.

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MOTION: By Vice Chair Cloke, seconded by Board member Nahai, and approved on a voice vote. No votes in opposition.

10. Saltwater Ammonia Saltwater Objectives Basin Plan Amendment

Renee Deshazo, Basin Planning Coordinator, gave the staff presentation. She reviewed the previous Basin Plan amendment to update ammonia objectives for freshwater. She discussed waters affected by the proposed amendment, which include brackish and saline waters. She reviewed the methods for determining the most appropriate objectives, including an examination of EPA criteria and Ocean Plan objectives. She reviewed the implementation provisions for determining fresh, brackish, or saline conditions and for converting the proposed objectives to effluent limits. She then reviewed comments received, staff's responses, and staff's recommendation, which was to adopt objectives based on EPA criteria.

Jon Bishop, chief, Regional Programs section, added clarifying language to the amendment.

Vice Chair Cloke asked if the EPA criteria used to determine the proposed objectives considered California native species.

Renee Deshazo replied that neither the EPA criteria nor the Ocean Plan objectives considered California native species.

Board member Nahai asked staff to elaborate on how downstream saltwater objectives would affect upstream freshwater discharges.

Renee Deshazo replied that there were general provisions in the amendment language to make the determination of when the objectives would apply based on salinity. She added that if it was necessary to apply downstream objectives to upstream discharges, this could be done through the permitting process.

There was a motion to adopt staff's recommendation with the changes proposed by Mr. Bishop.

MOTION: By Chair Diamond, seconded by Vice Chair Cloke, and approved on a voice vote. No votes in opposition.

15. Information Item – Update on Cease and Desist Order (CDO) and Cleanup and Abatement Order (CAO) for Halaco Engineering

Dennis Dickerson gave the staff presentation. He discussed background of the facility and Board actions including the CDO, CAO, and NOV's for stormwater violations. He reviewed the 13 provisions of the CDO and discussed the compliance status. He stated

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that based on sampling, staff has determined that the waste management unit does not contain inert waste. He stated that this would prohibit Halaco's plan to reconfigure the waste pile in order to meet the requirements of the CDO. He then discussed the CAO requirements and Halaco's petition in response to the CAO. He discussed the results of groundwater monitoring, which showed high concentrations of ammonia on site and in groundwater offsite. He then reviewed staff oversight activities, including the issuance of stormwater NOVs.

Gary Shultz, Groundwater permitting unit, reviewed stormwater compliance issues, problems with storage of filter press cakes, and problems with the disposal of wastewater since the City of Oxnard did not renew Halaco's sewer discharge permit.

Dennis Dickerson then discussed agency coordination regarding waste characterization, remediation, and provided an update on the settlement agreement between EDC, the Santa Barbara ChannelKeeper, and Halaco, and discussed the status of Halaco's Chapter 11 bankruptcy.

John Haack, Halaco, responded to staff's presentation. He discussed the temporary stormwater detention pond, and stated that the filter cakes currently produced were shipped offsite and that there was no excess of filter cakes produced at this time.

Ed Wallack, AEI consultants, on behalf of Halaco, spoke about the ammonia concentrations measured offsite. He stated that the values measured were for total ammonia, and would be non-toxic when converted to un-ionized ammonia.

Eliza Steinmeier, Lawyers for Clean Water, representing Santa Barbara ChannelKeeper, asked the Board to take more aggressive action against Halaco.

Board Questions

Board Member McDonald asked if the monitoring wells were installed as part of the CDO.

Gary Schultz replied that the CDO required the installation of the monitoring wells, the data from which was used in developing the CAO.

Board Member Nahai asked staff to respond to the claim that the ammonia measured was not toxic because it was reported as total ammonia.

Jon Bishop replied that the ammonia values measured still exceed both acute and chronic ammonia objectives when converted to unionized ammonia.

Deborah Smith, Assistant Executive Officer, stated that even if the ammonia levels were below objectives, the amount discharged could contribute to toxicity.

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Dennis Dickerson added that regardless of the level of ammonia discharged, Halaco's permit prohibits any discharge.

Board Member Nahai discussed ways in which to proceed with the cleanup of Halaco.

Marilyn Levin, State Attorney General's Office, stated that it was more appropriate to discuss the Board's strategy in closed session.

Board Member Cloke asked if there were any legal reasons to preclude staff from revising the CDO and requiring the removal of the entire waste management unit.

Marilyn Levin replied that because Halaco had filed for bankruptcy and was currently challenging the CAO, it was better to discuss legal strategy in closed session.

The Board directed staff to prepare for discussion of a legal strategy at the next closed session.

16. Update on TMDL and Basin Planning Activities

Jon Bishop presented background on TMDL development, including compliance with the consent decree. He reviewed the upcoming TMDL schedule and status of TMDLs recently adopted by the Board.

Renee Deshazo reviewed recently adopted and future Basin Planning activities. She discussed the upcoming Triennial review and the 303(d) list update. She updated the Board on the State Board decision to reconsider the use attainability analysis for Ballona Creek.

Adjournment of Current Meeting

The meeting adjourned at 3:50 pm. The next regular meeting is scheduled for April 1, 2004, at the Metropolitan Water District of Southern California, 700 North Alameda Street, Los Angeles, at 9:00 a.m.

Minutes adopted at the _____ Regular Board meeting submitted/amended.

Written and submitted by: _____.

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